

SENATE RECORD VOTE ANALYSIS

106th Congress
2nd Session

Vote No. 1

February 1, 2000, 2:21 p.m.
Page S-190 Temp. Record

BANKRUPTCY REFORM ACT/Prevention of Debt Collection

SUBJECT: Bankruptcy Reform Act of 1999 . . . S. 625. Hatch motion to table the Wellstone amendment No. 2538.

ACTION: MOTION TO TABLE AGREED TO, 53-44

SYNOPSIS: As reported, S. 625, Bankruptcy Reform Act of 1999, will enact reforms to prevent creditors who have the means of paying their debts from unjustly filing for bankruptcy, will enact reforms to protect consumers from unfair credit practices, and will enact business bankruptcy reforms. The bill is similar to the bipartisan bill considered during the 2nd session of the 105th Congress (see 105th Congress, 2nd session, vote No. 313).

The Wellstone amendment would prevent claims by payday lenders who provide loans with fees equal to amounts greater than a 100-percent annual percentage rate (APR) from being enforced by judges in bankruptcy hearings, thereby precluding those lenders from collecting those debts in final bankruptcy settlements. (Payday loans occur when a borrower writes a check to a lender for the amount of the loan and pays a fee to the lender. The lender then gives the borrower the loan amount and agrees to hold the check until a future date. Lenders frequently will permit the extension of loans if additional fees are paid) The amendment would also amend the Fair Debt Collection Practices Act to prohibit payday lenders from using or threatening to use civil or criminal justice processes in certain circumstances to collect the amounts owed to them.

Debate was limited by unanimous consent. After debate, Senator Hatch moved to table the Wellstone amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

Those favoring the motion to table contended:

Though this amendment is based on an admirable concern for the hard-pressed and poor of this nation, the policy it contains is flawed. Before outlining the flaws in this amendment, we must first note that the payday loan industry is not the major reason for the increase in bankruptcies in this country, as has been implied by our colleagues. Instead, the fault lies with the bankruptcy bar. Lawyers have unethically encouraged bankruptcies by advertising that they will help people go into bankruptcy in order to avoid

(See other side)

YEAS (53)			NAYS (44)			NOT VOTING (2)	
Republicans (51 or 98%)	Democrats (2 or 4%)		Republicans (1 or 2%)	Democrats (43 or 96%)		Republicans (2)	Democrats (0)
Abraham	Hutchinson	Johnson	Jeffords	Akaka	Kennedy	Gregg ²	
Allard	Hutchison	Lincoln		Baucus	Kerrey	McCain ²	
Ashcroft	Inhofe			Bayh	Kerry		
Bennett	Kyl			Biden	Kohl		
Bond	Lott			Bingaman	Landrieu		
Brownback	Lugar			Boxer	Lautenberg		
Bunning	Mack			Breaux	Leahy		
Burns	McConnell			Bryan	Levin		
Campbell	Murkowski			Byrd	Lieberman		
Chafee	Nickles			Cleland	Mikulski		
Cochran	Roberts			Conrad	Moynihan		
Collins	Roth			Daschle	Murray		
Coverdell	Santorum			Dodd	Reed		
Craig	Sessions			Dorgan	Reid		
Crapo	Shelby			Durbin	Robb		
DeWine	Smith, Bob			Edwards	Rockefeller		
Domenici	Smith, Gordon			Feingold	Sarbanes		
Enzi	Snowe			Feinstein	Schumer		
Frist	Specter			Graham	Torricelli		
Gorton	Stevens			Harkin	Wellstone		
Gramm	Thomas			Hollings	Wyden		
Grams	Thompson			Inouye			
Grassley	Thurmond						
Hagel	Voinovich						
Hatch	Warner						
Helms							

VOTING PRESENT (1)
Fitzgerald

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

their legal and moral responsibilities like paying child support and alimony. This bill addresses that problem, but this amendment does nothing but address a peripheral issue, and it does so in a faulty manner. The first problem with this amendment is that it would limit the rights of an industry that is legal in many States. The federal bankruptcy code ought not to be amended to undo legal State transactions. Second, the main thrust of this amendment is that it would deny payday lenders the right to sit at the bankruptcy bargaining table. This denial would only help those borrowers who actually filed for bankruptcy; it would not assist those people in the payday loan system who did not. Those people who took out payday loans and then did not take the easy way out through bankruptcy filings would still have to pay their debts. Third, limiting the payday loan industry would limit the opportunity for poor people to get help when they needed it from payday lenders. Fourth, by changing the Fair Debt Collection Practices Act, this amendment would preclude payday lenders from using State courts to collect debts that were legal under State law, and it would prohibit State judges from enforcing debt collections by excluding these lenders from making claims and by limiting their ability to take borrowers to civil or criminal court. We think that our colleagues are going too far in saying that lenders may lend money under State law but they may not try to have the law enforced to get their money back. We need a bankruptcy system that is fair to lenders as well as borrowers. This amendment should be tabled.

Those opposing the motion to table contended:

An increasing number of low- and moderate-income families in America are being economically forced to use a predatory form of lending known as payday lending. Payday lenders feed off the misfortune of the citizens in our country who are most vulnerable, including poor people, senior citizens, women, and minorities. The loans these people are forced to take have fees that are equal to 100 to 600 percent APR, yet these loan-sharking practices will not be stopped in this bill. This amendment would not allow these lenders to collect the debt owed them by a bankrupt if the loan fee was equal to an amount greater than 100-percent APR. The amendment would also prevent these lenders from using or threatening to use criminal or civil justice action against those who participated in the payday loan system. All too often, those who enter into the payday loan plan become trapped in a cyclical system in which they are continually harassed by lenders and are at risk of litigation and further debt. We must do what we can to protect these vulnerable members of our society. We encourage our colleagues to support our amendment.